

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201809819	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/19/2018 8:45 AM	Location of Incident: § 87(2)(b) PSA1 stationhouse	Precinct: 61	18 Mo. SOL 5/19/2020	EO SOL 1/3/2021	
Date/Time CV Reported	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/26/2018 11:08 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Rothenberg	23648	946198	PSA 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Marte	00842	961918	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Rothenberg	Abuse: Police Officer Jonathan Rothenberg entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Jonathan Rothenberg	Force: At § 87(2)(b) in Brooklyn Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Jonathan Rothenberg	Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg acted discourteously toward § 87(2)(b)	§ 87(2)(b)
D.POM Jonathan Rothenberg	Force: At § 87(2)(b) in Brooklyn Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Jonathan Rothenberg	Force: At § 87(2)(b) in Brooklyn Police Officer Jonathan Rothenberg restricted § 87(2)(b)'s breathing.	§ 87(2)(b)
F.POM Jonathan Rothenberg	Force: At § 87(2)(b) in Brooklyn Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Jonathan Rothenberg	Discourtesy: At § 87(2)(b), in Brooklyn, Police Officer Jonathan Rothenberg spoke discourteously to § 87(2)(b)	§ 87(2)(b)
H.POM Jonathan Rothenberg	Force: At § 87(2)(b) in Brooklyn Police Officer Jonathan Rothenberg tightly handcuffed § 87(2)(b)	§ 87(2)(b)
I.POM Jonathan Rothenberg	Force: At the PSA 1 stationhouse, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)	§ 87(2)(b)
J.POM Jonathan Rothenberg	Force: At the PSA 1 stationhouse, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
K.POM Jonathan Rothenberg	Force: At the PSA1 stationhouse, Police Office Jonathan Rothenberg restricted § 87(2)(b) s breathing.	

### Case Summary

On November 19, 2018, Sgt. Harold Gates of PSA1 contacted the IAB Command Center and filed this complaint on behalf of a prisoner, § 87(2)(b). On November 26, 2018, this complaint was received at the CCRB.

On November 19, 2018, at approximately 8:45 a.m., § 87(2)(b)'s next-door neighbor, § 87(2)(b), called the police and reported that § 87(2)(b) assaulted her. Two police officers, PO Jonathan Rothenberg and PO James Marte, both of PSA1, responded to the call. PO Rothenberg entered § 87(2)(b)'s apartment § 87(2)(b) in Brooklyn (**Allegation A: Abuse of Authority**, § 87(2)(g)). Upon entering the apartment, PO Rothenberg grabbed and pulled § 87(2)(b) by her hands (**Allegation B: Force**, § 87(2)(g)). He allegedly grabbed § 87(2)(b) by her hair, pulled the turban off her head, and then threw it to the floor (**Allegation C: Discourtesy**, § 87(2)(g)). PO Rothenberg then pushed § 87(2)(b) against the wall in the hallway of her apartment (**Allegation D: Force**, § 87(2)(g)). Afterwards, PO Rothenberg wrapped his arms around § 87(2)(b)'s upper chest, scratching her upper left arm in the process (**Subsumed in Allegation D: Force**, § 87(2)(g)), which restricted § 87(2)(b)'s breathing (**Allegation E: Force**, § 87(2)(g)).

After PO Rothenberg handcuffed § 87(2)(b), he pulled her out of the apartment (**Allegation F: Force**, § 87(2)(g)). § 87(2)(b) asked PO Rothenberg to get off her, to which he replied, "Shut the fuck up," (**Allegation G: Discourtesy**, § 87(2)(g)). PO Rothenberg then threw § 87(2)(b) against the wall (**Subsumed in Allegation F: Force**, § 87(2)(g)) and tightened her handcuffs (**Allegation H: Force**, § 87(2)(g)).

Upon arrival to PSA1 stationhouse, PO Rothenberg pulled § 87(2)(b) out of the police vehicle (**Allegation I: Force**, § 87(2)(g)). After PO Rothenberg brought § 87(2)(b) before the front desk, he allegedly pushed her head against the metal railing, causing § 87(2)(b) to hit the left side of her head and forehead against the railing (**Allegation J: Force**, § 87(2)(g)). PO Rothenberg then placed his elbow on § 87(2)(b)'s back, bent her forward, and held her in such position for several minutes, which caused her breathing to be restricted (**Allegation K: Force**, § 87(2)(g)).

As a result of this incident, § 87(2)(b) was arrested for § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b) (BR 18). She was removed to § 87(2)(b) a chief complaint of back and abdominal pain, and rectal bleeding.

The investigation was provided with several BWC recordings of this incident. The full videos are location in and can be viewed from the Investigative Actions #67-71. The relevant portions of these videos are discussed in the greater details below.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Jonathan Rothenberg** § 87(2)(b) in Brooklyn.

**Allegation (B) Force: A** § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b).

**Allegation (C) Discourtesy: A** § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg acted discourteously toward § 87(2)(b).

**Allegation (D) Force: A** § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b).

**Allegation (E) Force: At § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg restricted § 87(2)(b)'s breathing.**

It is undisputed that PO Rothenberg entered § 87(2)(b)'s apartment and used some level of force. § 87(2)(g)

The investigation has established the following facts. On November 19, 2018, at approximately 8:45 a.m., § 87(2)(b) and her next-door neighbor § 87(2)(b), engaged in a physical altercation by § 87(2)(b)'s apartment at § 87(2)(c) in Brooklyn. Later, § 87(2)(b) § 87(2)(b) called the police and complained about § 87(2)(b) PO Rothenberg and PO Marte responded to the call and spoke to § 87(2)(b) her daughter, § 87(2)(b) and § 87(2)(b) § 87(2)(b). The officers attempted to mediate the dispute between the neighbors, but their attempts failed. As such, PO Rothenberg placed § 87(2)(b) § 87(2)(b) under arrest and attempted to do so with § 87(2)(b).

§ 87(2)(b) resides in a two-bedroom apartment along with her daughter, § 87(2)(b). Upon entering the apartment, there is a small hallway that leads to the kitchen. To the left of the kitchen, there is a living room, and to the left of the living room, there are § 87(2)(b)'s and her daughter's bedrooms.

§ 87(2)(b) (BR 01) stated that while PO Rothenberg went to deal with § 87(2)(b) § 87(2)(b) she told PO Marte, who was by the front door, that she had a complaint report against § 87(2)(b) § 87(2)(b) which she decided to show to PO Marte. § 87(2)(b) then walked approximately six or seven feet towards her kitchen. PO Rothenberg followed § 87(2)(b) into the apartment, grabbed § 87(2)(b) by her left hand, and then placed it behind her back. § 87(2)(b) yelled that PO Rothenberg was violating her rights and asked him to get off her. Aside from verbally protesting PO Rothenberg's actions, § 87(2)(b) denied resisting. PO Rothenberg then grabbed § 87(2)(b)'s right hand and placed it behind her back as well. At some point, PO Rothenberg grabbed § 87(2)(b) by her hair and pulled the red and black turban off her head, which he then threw to the floor. PO Rothenberg turned § 87(2)(b) around and pushed her against the wall in the hallway of the apartment, and placed his right elbow against § 87(2)(b)'s upper back, causing pain to her back and neck. She moved her body from side-to-side, yelled and asked PO Rothenberg to release her. PO Rothenberg then wrapped both of his arms around § 87(2)(b)'s upper chest from behind, bear hugging her. In the process of wrapping his arms around § 87(2)(b) PO Rothenberg scratched her left upper arm (BR 02). PO Rothenberg applied some pressure to § 87(2)(b)'s chest, making it difficult for her to breathe, and she yelled, "I cannot breathe!" PO Rothenberg then released § 87(2)(b) grabbed her hands, and handcuffed her.

§ 87(2)(b)'s medical records (BR 04) from § 87(2)(b) indicate that she was brought to the hospital while in police custody. She complained of back and abdominal pain, and rectal bleeding. § 87(2)(b) had an abrasion to her the left upper arm, but otherwise no bruising, laceration, or lesion. § 87(2)(b) was given ibuprofen for pain.

§ 87(2)(b) (BR 03) stated in her telephone statement that after PO Rothenberg returned from speaking with § 87(2)(b) § 87(2)(b) he entered the apartment, immediately grabbed § 87(2)(b) by her hands and twisted them, trying to place them behind her back. § 87(2)(b) moved away from PO Rothenberg, but otherwise did not resist. Later, PO Rothenberg grabbed § 87(2)(b)'s hands again, pushed her against the wall, and then handcuffed her.



§ 87(2)(b) is standing in the hallway of the apartment to the left of the front door with her back against the wall. PO Rothenberg is standing to the right of § 87(2)(b) with his back towards the narrow hallway that leads to the rest of the apartment, presumably the kitchen and the living room. At the 00:41 minute mark, PO Marte moves away from the front door and § 87(2)(b) moves to close the front door. At the 00:45 minute mark, PO Marte approaches the front door and tries to open it. The video does not capture PO Rothenberg or § 87(2)(b) but they are heard shouting at each other. At the 00:56 minute mark, § 87(2)(b) yells, “Do not twist her arm like that.” At the 1:01 minute mark, PO Rothenberg says, “I just want her to calm down.” At the 1:03 minute mark, PO Rothenberg yells, “Stop turning around,” and then asks PO Marte to pass him a pair of handcuffs, which PO Marte does. At the 1:16 minute mark, PO Rothenberg yells, “Stop, Stop,” and, “Why are you going to the kitchen?” PO Marte opens the front door, but it only captures § 87(2)(b). At the 1:29 minute mark, § 87(2)(b) yells, “Ah,” and § 87(2)(b) says, “Relax.” At the 1:35 minute mark, § 87(2)(b) yells, “Ma.” The video does not capture what is going on in the apartment. At the 1:41 minute mark, PO Rothenberg yells, “Stop resisting,” “Shut up,” and, “Why are you making this hard?” § 87(2)(b) yells, “Ah...ah...” At the 1:57 minute mark, § 87(2)(b) asks her daughter to give her the scarf. At the 2:02 minute mark, PO Rothenberg brings § 87(2)(b) out of the apartment. She is not wearing the head scarf that she had initially.

PO Rothenberg (BR 08) provided a generally consistent testimony with the video evidence, with the following additional information. After the mediation failed, PO Rothenberg handcuffed § 87(2)(b) and then approached § 87(2)(b)'s apartment to arrest § 87(2)(b) on the cross complaint. The front door of § 87(2)(b)'s apartment was opened. When § 87(2)(b) saw § 87(2)(b) in handcuffs, she made a step backwards, retreating deeper into the apartment. PO Rothenberg told § 87(2)(b) that the mediation failed, asked her to turn around and to place her hands behind her back. § 87(2)(b) replied, “Oh no, no,” and moved away from the front door. PO Rothenberg then grabbed § 87(2)(b) by her right wrist and entered the apartment. PO Rothenberg explained that he grabbed § 87(2)(b) and entered the apartment, because she was moving away from him while he was trying to effect an arrest. PO Rothenberg then told § 87(2)(b) that she was under arrest, asked her to stop resisting, and to place her hands behind her back. She did not comply. PO Rothenberg spun § 87(2)(b) around and attempted to grab her other wrist. § 87(2)(b) managed to release herself, and she flailed her arms around her chest and threw a punch at PO Rothenberg, hitting him in the chest and knocking down his BWC camera, radio, and handcuffs. PO Rothenberg managed to maintain a hold of § 87(2)(b)'s right wrist. PO Rothenberg then saw that the front door was closed, leaving him alone in the apartment with § 87(2)(b) and § 87(2)(b). PO Marte remained outside of the apartment securing § 87(2)(b). PO Rothenberg issued § 87(2)(b) numerous commands to stop resisting, but she did not comply. She yelled something to the effect, “I am damaged,” and that PO Rothenberg was violating her Civil Rights. At some point, PO Rothenberg managed to pull § 87(2)(b) Rothenberg towards himself, but she spun around and quickly moved towards the kitchen pulling away from him. § 87(2)(b) managed to pull PO Rothenberg through the hallway and almost reached the kitchen, where PO Rothenberg saw a knife stand. He yelled, “Do not go into the kitchen. Do not go into the kitchen.” It did not appear for PO Rothenberg that § 87(2)(b) was trying to reach for a knife, but said that “everything was possible.” At this time, § 87(2)(b) approached PO Rothenberg from behind and attempted to

intervene by yelling, “What are you doing?”, while trying to move closer towards her mother. PO Rothenberg extended his left arm in the direction of § 87(2)(b) and told her to move away. PO Rothenberg then used his strength and managed to pull § 87(2)(b) towards himself. He placed § 87(2)(b) against the wall, with her left or right shoulder touching the wall, grabbed her left hand and placed it behind her back. PO Rothenberg denied slamming or throwing § 87(2)(b) against the wall, and said that he used minimum force necessary to pull her away from the kitchen and to move her towards the wall. PO Rothenberg then asked PO Marte to pass a spare set of handcuffs, which he did, and at which time, PO Rothenberg handcuffed § 87(2)(b). PO Rothenberg explained that his first set of handcuffs was on § 87(2)(b) and that § 87(2)(b) had knocked down the second pair.

PO Rothenberg denied grabbing § 87(2)(b) by her hair, pulling the turban off her head, or throwing it to the floor. PO Rothenberg noted that the turban fell off § 87(2)(b)'s head during the physical struggle she had with him. PO Rothenberg denied wrapping his arms around § 87(2)(b)'s chest, applying pressure to her chest, or restricting her breathing in any manner.

As a result of this incident, PO Rothenberg sustained a non-displaced fracture to his left wrist and went on line-of-duty for two months.

The Threat, Resistance, and Injury Report (here in TRI) (BR 10) prepared by PO Marte on behalf of PO Rothenberg, due to his injury, is consistent with PO Rothenberg's testimony.

PO Marte's testimony (BR 09) was generally consistent with PO Rothenberg's account regarding them trying to mediate the dispute between the neighbors, that § 87(2)(b) retreated to the apartment when PO Rothenberg attempted to arrest her, and that PO Rothenberg grabbed § 87(2)(b) by her wrist and entered the apartment to apprehend her. PO Marte remained standing outside of the apartment securing § 87(2)(b). He did not see what happened inside as the front door closed. He heard a sound of commotion and struggle, but could not see what was going on. PO Marte heard PO Rothenberg order § 87(2)(b) to stop resisting and to place her hands behind her back. At some point, PO Marte heard PO Rothenberg yell, “Why are you going to the kitchen?” PO Marte then peeked inside and saw § 87(2)(b) moving towards the kitchen. He then leaned back as § 87(2)(b) was pulling away from him. Later, PO Marte heard PO Rothenberg yell, “Cuffs.” PO Marte, without looking in the apartment, extended his left or right arm through the door and PO Rothenberg grabbed the handcuffs. PO Marte then leaned back into the apartment and saw PO Rothenberg handcuff § 87(2)(b). PO Marte did not see PO Rothenberg use any of the alleged force against § 87(2)(b) or pull off the turban from her head, or threw the turban on the floor.

The Investigating Supervisor's Assessment Report (here in ISAR) (BR 11) prepared by Capt. Tania I. Kinsella is generally consistent with PO Rothenberg's testimony with the following additional information. § 87(2)(b) told Capt. Kinsella that she was assaulted with a closed fist by § 87(2)(b) and sustained face injuries as a result. She also stated that she had a pre-existing back injury from being a dancer. She alleged being “thrown around” by PO Rothenberg after he told her that she was under arrest. Capt. Kinsella interviewed § 87(2)(b) who denied PO Rothenberg used “excessive force” against § 87(2)(b) and stated that the latter was resisting the officers. Capt. Kinsella's investigation concluded that PO Rothenberg and PO Marte acted appropriately and used minimum force necessary to place § 87(2)(b) under arrest, and recommended the case be closed without further action.

In determining whether exigent circumstances exist, the courts consider the following factors: a) the gravity or violent nature of the offense with which the suspect is to be charged, b)

whether the suspect is reasonably believed to be armed, c) a clear showing of probable cause to believe the suspect committed the crime, d) strong reason to believe that the suspect is in the premises being entered, e) a likelihood that the suspect will escape if not swiftly apprehended, and f) the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440 (2010) (BR 12) Absence of one or more factors does not preclude a finding of exigent circumstances. People v. Green, 182 A.D.2d 704 (1992) (BR 13) According to Payton v. New York, 445 U.S. 573 (1980) (BR 23), officers cannot cross the threshold of someone's front doorway to arrest them without a warrant.

An officer may apply no more than the reasonable force necessary to gain control of a subject or to effect an arrest. Patrol Guide Procedure 221-01 (BR 14)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

**Allegation (F) Force: At § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)**

**Allegation (G) Discourtesy: At § 87(2)(b), in Brooklyn, Police Officer Jonathan Rothenberg spoke discourteously to § 87(2)(b)**

**Allegation (H): Force: At § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg tightly handcuffed § 87(2)(b)**

It is undisputed that PO Rothenberg used some level of force to escort § 87(2)(b) out of her apartment and to secure her in the hallway prior to removing her to the stationhouse. § 87(2)(g)

[REDACTED]



§ 87(2)(b) (BR 01) stated that after PO Rothenberg placed her in handcuffs, he pulled her out of the apartment to the hallway by the handcuffs. She yelled at PO Rothenberg something to the effect, “Get off me,” and, “You are violating my people’s rights.” PO Rothenberg replied to § 87(2)(b) “Shut the fuck up.” He then threw § 87(2)(b) against the wall next to the elevator. Afterwards, PO Rothenberg grabbed § 87(2)(b) by the handcuffs and squeezed them tighter, causing bruising to her wrists (BR 17 and BR 22).

§ 87(2)(b) (BR 03) did not witness what happened to § 87(2)(b) after she was removed from the apartment. However, she noted that PO Rothenberg told § 87(2)(b) to “Shut the fuck up,” while they were in the apartment.

PO Rothenberg’s BWC (BR 15) begins with him walking § 87(2)(b) from the apartment. The camera is hanging off PO Rothenberg’s chest upside-down. At the 00:02 minute mark, § 87(2)(b) is seen rear cuffed and walking backwards. PO Rothenberg then adjusts the camera. At the 00:14 minute mark, § 87(2)(b) daughter verbally argues with § 87(2)(b) in the hallway of the building. PO Rothenberg orders § 87(2)(b) daughter to get back in her apartment. At the 00:20 minute mark, PO Rothenberg moves § 87(2)(b) to the corner to the left of the elevator and then places her face-forward against the wall, asking § 87(2)(b) to stop resisting. At the 00:28 minute mark, § 87(2)(b) slightly moves away from the wall. PO Rothenberg asks her to stop and then again places her against the wall by placing his right hand on § 87(2)(b) s right shoulder. The video does not capture PO Rothenberg’s left hand. § 87(2)(b) yells several times, “I am damaged.” At the 00:52 minute mark, § 87(2)(b) attempts to turn, while saying to PO Rothenberg, “Please get off me,” and, “You are hurting me.” PO Rothenberg asks § 87(2)(b) to relax and to stop moving. At the 1:27 minute mark, PO Rothenberg moves § 87(2)(b) away from the wall by walking her backwards. At this time, § 87(2)(b) and her daughter get in a shouting match with § 87(2)(b) son and daughter. At the 1:39 minute mark, PO Rothenberg moves § 87(2)(b) away from § 87(2)(b) children and places her face-forward against the wall to the left of the elevator. She attempts to turn around and PO Rothenberg asks her to stop moving.

At the beginning of 00:44 minute mark of PO Rothenberg’s BWC (BR 06) – which captures PO Rothenberg’s interaction with § 87(2)(b) while they are in the apartment – PO Rothenberg yells to § 87(2)(b) “Shut your mouth.”

At the 2:03 minute mark of PO Marte’s BWC (BR 09), the video shows PO Rothenberg escorts § 87(2)(b) who is moving backwards, from the apartment while holding her by the handcuffs links. § 87(2)(b) then engages in a verbal dispute with § 87(2)(b) daughter. At the 2:21 minute mark, the camera captures PO Rothenberg holding § 87(2)(b) by the left wrist, as he orders § 87(2)(b) daughter to get back in the apartment. He then takes § 87(2)(b) by her right upper shoulder, turns her around, walks her through the narrow hallway to the left of the elevator, and places her face-forward against the wall.

At no point the videos capture PO Rothenberg say to § 87(2)(b) “Shut the fuck up,” while they are in the apartment, or in the hallway.

PO Rothenberg (BR 08) stated that after he placed § 87(2)(b) in handcuffs, she continued to resist by throwing her body weight around and refusing to walk voluntarily. PO Rothenberg denied pulling § 87(2)(b) by the cuffs, and said that he pulled her by the wrists because she was resisting. Once § 87(2)(b) was in the hallway, she continued to yell and got in a verbal dispute with § 87(2)(b) children. Thus, PO Rothenberg walked and placed

§ 87(2)(b) against the wall to the left of the elevator to secure her and to separate her from the rest of the individuals. PO Rothenberg denied saying to § 87(2)(b) “Shut the fuck up,” after removing her from the apartment. Initially, PO Rosenberg stated that he might have said to § 87(2)(b) “Shut the fuck up,” while they were in the apartment. PO Rothenberg explained that by this statement, he was trying to stop § 87(2)(b) from yelling so he could ask PO Marte to pass him the handcuffs. However, later PO Rothenberg corrected his initial statement and said that he may have yelled, “Shut your mouth,” at § 87(2)(b) but not “Shut the fuck up.”

PO Rothenberg denied retightening § 87(2)(b)'s handcuffs. PO Rothenberg noted that he might have double-locked her handcuffs after removing § 87(2)(b) to the hallway to prevent them from tightening, because he had no time to do so in the apartment.

PO Marte (BR 09) provided a generally consistent testimony with that of PO Rothenberg. PO Marte testified that he only saw PO Rothenberg holding § 87(2)(b) by her forearm when he walked her out of the apartment. PO Marte did not see PO Rothenberg throw § 87(2)(b) against the wall, nor did he see PO Rothenberg tightening her handcuffs, stating that he was busy dealing with § 87(2)(b) and her children, who got in a verbal dispute, and only saw PO Rothenberg and § 87(2)(b) standing by the wall.

An officer may apply no more than the reasonable force necessary to gain control of a subject or to effect an arrest. Patrol Guide Procedure 221-01 (BR 14)

§ 87(2)(g)  
[REDACTED]

**Allegation (I) Force: At the PSA 1 stationhouse, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)**

**Allegation (J) Force: At the PSA 1 stationhouse, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)**

**Allegation (K) Force: At the PSA1 stationhouse, Police Office Jonathan Rothenberg restricted § 87(2)(b)'s breathing.**

It is undisputed that PO Rothenberg used force against § 87(2)(b) to remove her from the vehicle upon arrival to the stationhouse. § 87(2)(g)

[REDACTED]

§ 87(2)(b) (BR 01) alleged that upon arrival to the PSA1 stationhouse, PO Rothenberg grabbed her by the left or right shoulder, pulled her out of the vehicle, walked her to the stationhouse, and brought her before the front desk. PO Rothenberg then bent § 87(2)(b) forward and pushed her head against the metal railing by the front desk, causing

§ 87(2)(b) to hit the left side of her forehead against the railing which resulted in bruising and swelling. PO Rothenberg did not release § 87(2)(b) but placed his right or left elbow on her back and held her head against the railing for approximately 10 minutes, causing her breathing to be restricted. § 87(2)(b) yelled, “I cannot breathe,” but PO Rothenberg ignored her.

§ 87(2)(b)'s medical records from § 87(2)(b) (BR 04) do not list any injuries, bruising, or swelling to her head or forehead, nor that she complained of any head injuries.

PO Rothenberg's BWC (BR 16) begins with § 87(2)(b) asking PO Rothenberg to record the incident. At the 00:07 minute mark, PO Rothenberg asks § 87(2)(b) to exit the vehicle. She replies, “Wait a minute. My foot,” and, “You are too abusive.” PO Rothenberg again asks § 87(2)(b) several times to step out. At the 00:17 minute mark, § 87(2)(b) says to PO Rothenberg, “Stop manhandling me.” The camera captures only § 87(2)(b)'s voice. PO Rothenberg continues to ask § 87(2)(b) to step out. At the 00:19 minute mark, § 87(2)(b) exits the vehicle. It is unclear if PO Rothenberg assists § 87(2)(b) to exit the vehicle, or if she exits on her own power, but the video does not capture any physical struggle between § 87(2)(b) and PO Rothenberg. At the 00:27 minute mark, PO Rothenberg holds § 87(2)(b) by her left upper arm while walking her into the stationhouse. PO Rothenberg asks § 87(2)(b) to watch the doors. § 87(2)(b) yells, “Aa...aa...” At the 00:35 minute mark, PO Rothenberg asks § 87(2)(b) to stop throwing herself into the “stuff” while they are walking in the hallway of the stationhouse. At the 00:37 minute mark, § 87(2)(b) moves to the side and goes down. It is unclear if she reaches the floor. PO Rothenberg yells, “Get up, and stop throwing yourself in the stuff.” § 87(2)(b) continues to yell, “Aa...aa...aa,” and, “Police brutality.” The video does not capture § 87(2)(b) but only her voice. At the 00:48 minute mark, PO Rothenberg approaches the front desk. The video captures a metal railing around the front desk. At the 00:54 minute mark, PO Rothenberg places the camera on the top of the desk so that it faces him and § 87(2)(b). At the 00:57 minute mark, the video captures PO Rothenberg holding § 87(2)(b) with his right hand on her back and over her left bicep, with his left hand resting on the desk. The video does not capture § 87(2)(b) but only her left arm, because she is bent forward. PO Rothenberg is standing to the right of § 87(2)(b). At the 1:02 minute mark, she yells, “Ah...ah...ah.” At the 1:17 minute mark, § 87(2)(b) gets in an upright position so that her head levels with the desk and yells, “Please get off me. My rights have been violated. Stop.” At the 1:20 minute mark, PO Rothenberg takes several steps backwards along with § 87(2)(b) so that the video fully captures both of them.

The video evidence from PSA1 stationhouse did not capture the incident.

PO Rothenberg's (BR 08) testimony was generally consistent with the video evidence discussed above. PO Rothenberg stated that upon arrival to the stationhouse, he asked § 87(2)(b) to exit the vehicle, but she said that she could not. PO Rothenberg then helped § 87(2)(b) exit the vehicle by lifting her legs so that she could step out, and she did so on her own power. PO Rothenberg denied pulling § 87(2)(b) out of the vehicle by grabbing her shoulder or using any force against her to remove her from the vehicle. After § 87(2)(b) exited the vehicle, PO Rothenberg walked her to the stationhouse by holding her right or left upper bicep. When § 87(2)(b) reached the front door of the stationhouse, she went limp and almost fell to the floor. PO Rothenberg lifted her up and asked her to stop doing that. § 87(2)(b) then threw herself against the stack of paper boxes

that were in the hallway of the stationhouse. PO Rothenberg asked § 87(2)(b) to stop throwing herself at objects. At that point, PO Rothenberg went from maintaining control of § 87(2)(b) via the handcuffs and by holding her by the bicep, to placing his right or left hand up her back to hold her body weight with his bicep, which caused her to bend forward.

PO Rothenberg's TRI report (BR 10) does not indicate any force being used against § 87(2)(b) while she was at the stationhouse.

An officer may apply no more than the reasonable force necessary to gain control of a subject or to effect an arrest. Patrol Guide Procedure 221-01 (BR 14)

## Civilian and Officer CCRB Histories

- § 87(2)(b)  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]
- PO Jonathan Rothenberg has been a member-of-service for 11 years and has been a subject in six CCRB complaints and 15 allegations, none of which were substantiated.

§ 87(2)(g)

## Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On § 87(2)(b), § 87(2)(b) filed a Notice of Claim with the City of New York claiming injuries to her back, shoulder, arm, and head, emotional distress, public humiliation and embarrassment, and possible surgery for injuries sustained during the arrest, and seeking one million dollars (\$1,000,000.00) as redress (BR 20). A 50 H hearing is scheduled for § 87(2)(b).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Squad No.: 4

Investigator: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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Reviewer:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Title & Name

\_\_\_\_\_  
Date